

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA ex rel. JUNE :  
RAFFINGTON, :  
 :  
Plaintiff, :  
 : ORDER  
-v.- :  
 : 10 Civ. 9650 (RMB) (GWG)  
 :  
BON SECOURS HEALTH SYSTEM, INC. et al., :  
 :  
Defendants. :  
-----X  
GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

In a recent filing (Docket # 469), Relator seeks an extension of the deadline for disclosure of expert evidence contained in the Court's December 11, 2019 Order (Docket # 464). Under that Order, Relator's disclosure of expert evidence required by Federal Rule of Civil Procedure 26(a)(2)(A), (B) or (C) relating to liability must be made by April 24, 2020. Relator seeks a twelve-week extension of that deadline, to July 17, 2020. The defendants oppose that extension. Docket # 470.

The foundation for Relator's request consists of sworn declarations by two of her experts regarding added responsibilities or disruptions occasioned by the ongoing COVID-19 pandemic. (Docket ## 469-1, 469-2). Thus, one expert, Dr. Joel S. Bauman, states that he has assumed additional duties because of COVID-19 that make it impossible for him to complete an expert report prior to the April 24, 2020 deadline. Docket # 469-1. But he (understandably) nowhere predicts how long that disruption will last. The same is true of the declaration of Jessica Schmor, Relator's medical coding expert. Thus, while the experts' statements certainly justify some extension of the deadline (which was only 3 weeks away when Relator's request was made), they do not explain Relator's request for a four-month extension.

In opposing the full extension sought, defendants note, among other things, that they will incur over \$40,000 in e-discovery database management costs over the next four months. Docket # 470-1.

Certainly, the ramifications of the ongoing COVID-19 pandemic, as outlined by Relator, provide good cause under Federal Rule of Civil Procedure 16 to extend the deadline for Relator's Rule 26 disclosure.<sup>1</sup> However, given the uncertainty regarding the ultimate length and

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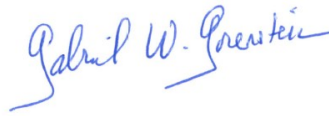
<sup>1</sup> See, e.g., Shelby v. Lakeview Loan Servicing, LLC, 2020 WL 1697244, at \*1 (E.D. Mich. Apr. 7, 2020) (good cause shown for discovery extension under Rule 16 where "deposition of a key witness has been delayed because of the ongoing COVID-19 pandemic."); Kleiman v. Wright, 2020 WL 1472087, at \*2 (S.D. Fla. Mar. 26, 2020) (finding good cause

impact of the disruption identified by the experts, we decline to grant Relator's request for a twelve-week extension. Rather, the deadline for Relator to submit her Rule 26 disclosure is extended by 60 days, to June 23, 2020. The May 5, 2020 and May 8, 2020 deadlines contained in the Court's December 11, 2019 Order (Docket # 464) are similarly extended 60 days to July 6, 2020 and July 8, 2020, respectively.

This ruling is without prejudice to any future application that may justify an additional extension. It is also without prejudice to any future application by defendants that, even if good cause is shown for a further extension, the financial burden of maintaining the database for the additional period should be borne by Relator.

SO ORDERED.

Dated: April 13, 2020  
New York, New York



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GABRIEL W. GORENSTEIN  
United States Magistrate Judge

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under Rule 16 and granting opposed discovery extension “in light of the COVID-19 global pandemic, the profound logistical issues affecting Florida and New York residents, businesses, and courts, and the issues surrounding the three outstanding fact witness depositions, which are unlikely to be resolved before the current discovery deadline”); Elsherif v. Clinic, 2020 WL 1441959, at \*1 (D. Minn. Mar. 24, 2020) (finding good cause under Rule 16 to grant opposed discovery extension because of “the virus currently disrupting nearly every aspect of daily life in this country” despite fact that “defendants are understandably eager to conclude this litigation.”).